IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

OP.No. 10333 of 1999(E)

PETITIONER:

THE ERNAKULAM DISTRICT LABOUR-CUM-DEVELOPMENT CO-OPERATIVE BANK LIMITED.,REPRESENTED BY ITS VICE PRESIDENT MR. P.B.SUNIL, S/O.BHASKARAN, AGED 30 YEARS, PALAKKAPARAMBIL, THIRUVALLOOR, ALANGAD.

BY ADV. SRI.BABU KARUKAPADATH

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.**

2. **THE SPECIAL SECRETARY, DEPARTMENT OF REVENUE, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI. SANDESH RAJA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.10333/1999 E

ORDER ON C.M.P.NO.16955/1999 IN O.P.NO.10333/1999

DISMISSED

21/02/2007 **SD/- ANTONY DOMINIC, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF APPLICATION DTD. 21/02/97 BY THE PETITIONER TO THE 1ST RESPONDENT.**

EXT.P2: **COPY OF LETTER DTD. 24/02/97 ISSUED BY THE DISTRICT COLLECTOR, ERNAKULAM, TO THE BOARD OF REVENUE.**

EXT.P3: **COPY OF ORDER OF THE 1ST RESPONDENT NO.49120/A3/98 REVENUE DTD. 12/01/99.**

EXT.P4: **COPY OF ORDER IN O.P.NO.17233/96 DTD. 27/06/97 OF THIS HON'BLE COURT.**

EXT.P5: **COPY OF THE APPLICATION DTD. 3/04/1999 SUBMITTED BY THE PETITIONER.**

/TRUE COPY/

Kss

ANTONY DOMINIC, J.

O.P NO. 10333 OF 1999

Dated this the 21th day of February, 2007

J U D G M E N T

The petitioner, a co-operative Bank, held 73 acres of kayal puramboke land in Survey No.329/1A of Kottuvally village, Paravur Taluk on lease. On expiry of the period of lease granted in their favour, they made an application, as evidenced by Exhibit P1, for its renewal for a further period of 12 years from 1997. The petitioner has produced copy of a letter dated 24/2/97, issued by the District Collector, Ernakulam, who is also the President of the petitioner Co-operative Bank, requesting the Secretary, Board of Revenue, Government of Kerala to accord sanction for the extension of lease in favour of the petitioner. However, the application for renewal of lease was rejected by the 2nd respondent by Ext.P3 letter dated 12/1/99 informing the petitioner that in view of the directions issued by this court in the judgment in OP No 17233/96, they are not in a position to consider the renewal application. According to the 2nd respondent, this Court had in the aforesaid judgment directed that no

river/kayal poramboke shall be given on lease or on registry to anybody and it was therefore that they were unable to consider the application.

2. A copy of the judgment in OP No.17233/96, referred to in Ext.P3, has been produced by the petitioner as Exhibit P4. As rightly pointed out by the counsel for the petitioner, this court was considering a case in which a direction restraining the filling of puzha poramboke in Sy.No.985 of Cheranellore Village was sought for in that original petition. It is in the above factual background, confining to the facts pleaded and reliefs sought in that original petition, it was directed that the Government or the Revenue Officials shall not assign the land on the side of the river, or water courses including the land which was a subject matter of that original petition.

3. On going through the judgment, I am inclined to agree with the counsel for the petitioner that the directions issued by this court was not meant to be of universal application and was confined to the issue that was considered by this court. Therefore the 2nd respondent was in error in assuming that in view of the direction issued by this Court in Exhibit P4, they were disabled from considering the application made by the petitioner

concerning a totally different area of land. In that view of the matter, I am not in a position to sustain Exhibit P3 and the said order is to be quashed.

4. Accordingly quashing Exhibit P3 order, the 2nd respondent is directed to consider Exhibit P1 application of the petitioner afresh on merits and pass fresh orders in accordance with law within a period of three months from the date of receipt of a copy of this judgment. I make it clear that, I have not examined anything on the merits of the issue and it is entirely for the 2nd respondent to consider the request of the petitioner and take a decision. Needless to say that, the petitioner shall be given notice so that they will have an opportunity to make representations in the matter.

5. Taking into account the fact that the petitioner is still in possession of the land, it is directed that until the decision as ordered herein above is taken and communicated to the petitioner, status quo as on date shall be maintained.

Original petition is disposed of as above. No costs.

ANTONY DOMINIC, JUDGE

Rp